

## **REMARKS**

Claims 1-8 are pending in the present application. Claims 1-10 are rejected based on art.

### **I. PRIORITY**

Applicants claims priority to one (1) priority document in the declaration and the transmittal papers as a basis for priority for the International Application. The Examiner indicated that “some” of the priority documents were received on the Office Action Summary sheet. In the Office Action, on page 2, the Examiner acknowledged receipt of priority papers. Applicants respectfully request confirmation that a complete priority document has been received.

### **II. DRAWINGS**

The Examiner objects to Figures 15 and 16 for not including the descriptive legend “PRIOR ART.” Figures 15 and 16 are amended to include such a legend. In addition, the drawings are objected to for including reference designators not described in the specification. The specification is amended to include such reference designators. No new matter is added. Accordingly, it is respectfully requested that all objections to the drawings be withdrawn.

### III. SPECIFICATION

The Examiner objects to the title of the disclosure for not being descriptive. The title is amended to be clearly indicative of the invention. In addition, the specification is amended to include reference designators as requested by the Examiner and discussed above. No new matter is entered.

### IV. REJECTIONS UNDER 35 U.S.C. §102(b) and §103(a)

The pending claims are variously rejected based on art. The claim rejections are discussed in relation to each art rejection and how the claims define over the pending art.

A. The Examiner rejects the claims as anticipated. The Manual for Patent Examining Procedure (MPEP) sets forth the standard for rejecting a claim as anticipated as follows:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). >"When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) (claim to a system for setting a computer clock to an offset time to address the Year 2000 (Y2K) problem, applicable to records with year date data in "at least one of two-digit, three-digit, or four-digit" representations, was held

anticipated by a system that offsets year dates in only two-digit formats). See also MPEP §§ 2131.02.<"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Note that, in some circumstances, it is permissible to use multiple references in a 35 U.S.C. 102 rejection. See MPEP §§ 2131.01.

Applicants respectfully traverse the rejection of the claims as anticipated.

1. Rejection of claims 1-3 and 5 under 35 U.S.C. §102(b) as anticipated by JP 07-014616.

Applicants respectfully traverse the rejection of the claims as anticipated by JP 07-014616. Independent claim 1 recites, in part;

at least one binding band overlapping the outer side of the first binding plate and the outer side of the second binding plate.

This limitation fails to teach a binding band as claimed. In addition, This reference fails to teach binding plates forming coolant passages between ribs as claimed.

Independent 2 includes the same limitations.

2. Rejection of Claims 1-3 and 5 under 35 U.S.C. §102(b) as anticipated by JP 09-219181

Applicants respectfully traverse the rejection of the claims as anticipated by JP 09-219181. Independent claim 1 recites, in part:

a first binding plate adjacent one of the long sides of the plurality of cells, having an outer side parallel with one of the short sides of the plurality of cells;

a second binding plate adjacent another one of the long sides of the plurality of cells, having an outer side parallel with one of the short sides of the plurality of cells;

at least one binding band overlapping the outer side of the first binding plate and the outer side of the second binding plate; and

said first binding plate and said second binding plate forming coolant passages between the first binding plate and the second binding plate and the plurality of ribs so that coolant passes through the coolant passages.

These limitations are not taught by the cited art. The cited art fails to teach binding plates extending along the long sides of the plurality of cells tied by at least one binding band. In addition, the claimed coolant passages are not taught. Claim 2 recites a similar limitation.

3. Rejection of claims 1-3 and 6 as anticipated by JP 03-109269

Applicants respectfully traverse the rejection of the claims as anticipated by JP 03-109269. In regard to the above claim quotes and discussions, it is respectfully submitted that claims 1 and 2 are not anticipated by the cited art as JP

03-109269 fails to teach binding plates extending along the long sides of the plurality of cells tied by at least one binding band and the claimed coolant passages.

4. Rejection of claims 1-10 as anticipated by EP 952620

Applicants respectfully traverse the rejection of the claims based on EP 952620. In regard to the above claim quotes and discussions, it is respectfully submitted that claims 1 and 2 are not anticipated by the cited art as EP 952 620 fails to teach the overlapping binding band as claimed.

5. Rejection of claims 1-2 and 6-8 as anticipated by Holl, U.S. Patent No. 4,957,829

Applicants respectfully traverse the rejection of the claims as anticipated by Holl. In regard to the above claim quotes and discussions, it is respectfully submitted that claims 1 and 2 are not anticipated by the cited art as Holl fails to teach the claimed overlapping binding bands and coolant passages.

B. The Examiner rejects the claims as obvious. The MPEP sets forth the standard for rejecting a claim as obvious as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2143

Applicants respectfully traverse the rejections of the claims as obvious.

1. Rejection of claims 3-5 as obvious over Holl in view of Suzuki et al., U.S.

Patent No. 5,756,227

Applicants respectfully traverse the rejection of the claims as obvious over Holl in view of Suzuki et al. In regard to the above claim quotes and discussions, it is respectfully submitted that claims 1 and 2 are not rendered obvious by the cited art for failure of the cited art to teach or suggest overlapping binding bands and coolant passages as claimed.

2. Rejection of claims 9 and 10 as obvious over Holl in view of Inoue, U.S.

Patent No. 5,766,801 or Evjen, U.S. Patent No. 4,468,440

As claims 9 and 10 are cancelled, a discussion of the rejection of these claims is cancelled. However, it is noted that Applicants respectfully traverse any

rejection of the independent claims as obvious over Holl in view of Inoue or Evjen. In regard to the above claim quotes and discussions, it is respectfully submitted that claims 1 and 2 are not rendered obvious by the cited art for failure of the cited art to teach or suggest overlapping binding bands and coolant passages as claimed.

C. As the cited art fails to teach or suggest the claimed invention, it is respectfully requested that all rejections under 35 U.S.C. §102(b) and §103(a) be withdrawn. Indication of allowance of the pending claims is respectfully requested.

V. SUMMARY

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,  
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